

Ravalli County Planning Board & Ravalli County Board of County Commissioners
Joint Meeting Minutes for February 18, 2009
3:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

Joint Public Meeting

Discussion and Update with County Commissioners and Planning Board

This is a summary of the meeting, not a verbatim transcript. A CD of the meeting may be purchased from the Planning Department for \$5.00.

1. Call to order

Commissioner Grandstaff called the meeting to order at 3:03 p.m.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Planning Board Members

Mary Lee Bailey (absent - excused)
Jim Dawson (absent- excused)
Howard Eldredge (present)
Ben Hillicoss (present)
Lee Kierig (present)
Fran Maki (present)
Chip Pigman (present)
Les Rutledge (present)
Cheryl Tenold (present)
Lee Tickell (present)
Jan Wisniewski (present)

Park Board Representative: Mike Enzler (absent- excused)

(B) Commissioner Members

Greg Chilcott (present)
Kathleen Driscoll (present)
Carlotta Grandstaff (present)
J.R. Iman (present)
James Rokosch (present)

(C) Staff

Danielle High - Planning
John Lavey - Planning
Karen Mahar - CAO
Dan Browder - CAO

3. Public Meeting

(A) Discussion and Update with County Commissioners and Planning Board

Commissioner Grandstaff stated that the main focus for this meeting was for everyone to be on the same page. She wanted to make sure that the Planning Board and the Commissioners were giving the consultants and the applicants the same information regarding subdivision review. She requested that the Planning Board focus on receiving all the evidence for findings of facts so that they are legally defensible. She stated that for subdivision mitigation, the planning board should

no longer recommend that subdividers pay mitigation assessments on first conveyance of the lot; but should instead ask the subdivider to pay before final plat approval. Also, she said that to increase the predictability in the subdivision process, the Board of County Commissioners has asked the Planning Department to draft a memorandum to subdividers explaining the Commissioners preferred mitigation for subdivision proposals.

Commissioner Rokosch stated that there has to be factual evidence that is legally defensible. The findings of fact used in subdivision review have to be geographically linked to the parcel being discussed. He stated that there needs to be more and better information in the staff reports. He also stated that the Commissioners, Planning Board, and the Planning Department need to be on the same page about the mitigation process.

Commissioner Driscoll stated that if there is a lot of information collected on a subdivision, then there needs to be a “tipping point” beyond which the information is a legitimate finding of fact. She said that they need to know what information is clear evidence on which to base a decision.

Commissioner Iman stated that logical solutions have to be offered. The subdivisions have to make sense and situations have to be mitigated. He said that the Commissioners make decisions on Planning Board information and sometimes there is not enough solid information to base their decision. He said that the Planning Board has to collect as much factual information as they can. He said that it helps when people have expertise in different areas.

Commissioner Chilcott stated that sometimes it seems like the Planning Board loses sight of what its responsibilities are. He said that everyone is duty-bound when reviewing a subdivision to follow the law as it is written.

Ben Hillicoss stated that he thinks that the biggest issue is the findings of fact. He asked how the Planning Board should document them so they are legally defensible.

Commissioner Rokosch suggested that maybe Karen Mahar or Dan Browder from the County Attorney’s Office could answer that question.

Deputy County Attorney Karen Mahar stated that she attended the “Mock Subdivision Hearing” at the last Planning Board Meeting on February, 4, 2009, and she went over some of the legal requirements then. She stated that information needs to be submitted to the Planning Department to get on the record.

Ben Hillicoss said that maybe not all the Planning Board Members understand or see that in the same way. He suggested that maybe they could go over something concrete.

Lee Tickell asked what level of findings of fact the Planning Board needs, how to obtain them, and who pays for the research. He also stated that there is a lot of technology out there that can help to further document Planning Board meetings, such as video.

Commissioner Rokosch stated that a primary function of the Planning Board and BCC is to ensure public health and safety. He stated that it is up to everyone to gather as much substantial evidence and it is also up to the developers to identify negative effects and give clear evidence on those.

Ben Hillicoss asked what he would have to do if he received a letter that has some substantial evidence on a subdivision.

Deputy County Attorney Karen Mahar stated that whoever received the letter should forward it on to the planner who was working on that subdivision. She said that this way, if there is information, the applicant and public can respond.

John Lavey concurred that the information should be forwarded to the Planning Department. He continued to say that the logical next question would then be “what does the Planning Department do with that information” and he said that planning staff would review it to determine whether there was a clear nexus between the information submitted to the subdivision proposal.

Ben Hillicoss asked if the Road and Bridge Department submits subdivision information if it applies to other subdivisions in that area.

John Lavey responded that it would depend on quality of information and the type of information; application would be done on a case-by-case basis.

Ben Hillicoss stated that he does not always know where the sources or data supporting the findings in planning staff’s draft staff report originate from.

John Lavey stated that there are attachments on the back of staff reports or references in the findings showing where the Planning Department gets their information and facts.

Commissioner Rokosch stated that as soon as the Planning Board Members get any information that is of importance, they need to get it to the Planning Department so that the planners have enough time to go over it and make it part of the staff report. He stated that this process would make it a lot easier on the Commissioners and the Planning Department Staff.

Lee Kierig asked what the Planning Board is supposed to do when the law is lagging behind the findings and facts.

Commissioner Chilcott responded that the Planning Board is supposed to implement the laws as they are written.

Commissioner Rokosch stated that if Lee wanted the laws changed, he would have to go to the legislature. He also stated that there is a form and venue to change that and that is not under the current subdivision review procedure. He stated that the Planning Department is in the process of changing and updating the Subdivision Regulations and that might help, but will not change the law.

Chip Pigman stated that he sees the problem that nobody wants to depend on staff. He stated that staff has a procedure that they follow and that they are very thorough in their sufficiency reviews. He said that they have to figure out what we want more information on.

Commissioner Grandstaff stated that is what is in the letter that the Planning Department is going to be sending out to the consultants.

John Lavey stated that the question is how to make the process more predictable. He said that some of the mitigation strategies might very well become requirements when revisions to the Subdivision Regulations are complete. He stated that if that happens, then the letter that would be sent to the consultants may not need to be sent any more.

Commissioner Rokosch stated that it would be a three-tiered system to ensure that negatives are being identified. He stated that the main focus would be on Public Resources, Public Safety, and Public Health. He said that the review procedure needs to be critical and predictable so that they can get additional, better information on which to base decisions.

Ben Hillicoss asked if the Planning Board was just to ignore the problem about the Sheriff’s Office when reviewing Subdivisions. He said that about a year ago the Sheriff would send a memo saying that he cannot provide adequate protection due to lack of money and staff.

Commissioner Chilcott stated that \$500 per lot was being collected to mitigate public safety. He stated that it is hard for the developer to mitigate the situation when there is no answer from the Sheriff's Office on what they want. He said that there needs to be data to support the mitigation.

Commissioner Rokosch stated that it is the developer's responsibility to offer the mitigation, and it is the Commissioners' responsibility to confirm it is sufficient. He said that maybe they will have to invest some money into developing better data for the mitigation.

Les Rutledge stated that the problems arise when they are trying to define the effects on the criteria of the subdivisions. He said that the statutes never defined what they needed to look at in the criteria. He stated that they need to come up with objective criteria and develop them into the revised subdivision regulations.

Commissioner Driscoll voiced her concern with future development. She asked if there was a way to control growth in a more controlled manner.

John Lavey stated that there are ways to control growth, but many of them are not applicable to the Subdivision Regulations. He said that is more of a zoning issue.

Cheryl Tenold asked if vacant property around a subdivision could affect the subdivision.

John Lavey answered that if someone had factual information that shows existing lots will have an effect on the proposed subdivision it could be used in the staff report. He said that we have to have evidence that makes the connection.

Lee Kierig asked how much growth the resources can support. He asked if it was incumbent upon the Planning Board to figure that out.

Commissioner Rokosch stated that there are different mechanisms to determine that and that the Planning Board can do more than just project review.

Lee Kierig stated that he would like to come to the Commissioner meetings when they are reviewing a project because he thinks that he can bring information and that the Planning Board has a lot to offer. He stated that the Request for Commission Actions sent to the Commissioners based on the Planning Board decision can be expanded if the Planning Board members attend Commissioners meetings.

Commissioner Chilcott stated that he would like to see the Planning Board members stay more focused on the subdivisions being reviewed and not on global issues. He stated that he had concerns about denying a subdivision, getting into a lawsuit and having people who read the minutes see that there were global issues discussed that have nothing to do with the task on hand.

Commissioner Rokosch stated that he welcomed any Planning Board member that would like to come to the Commissioners' subdivision meetings.

Lee Tickell asked what the Planning Board needed to capture for the record and if anyone has defined specific criteria for the six criteria that are used for review.

John Lavey responded that every county in Montana uses these criteria and that we define the components differently than other counties.

Deputy County Attorney Karen Mahar stated that the Planning Staff will take the information from the Planning Board and generate that into a report for the Commissioners and the minutes from the meeting are included in the record.

John Lavey said that the meetings are also tape-recorded.

Chip Pigman asked if the Subdivision Regulations would be filled with additional regulations since the Growth Policy was repealed.

Commissioner Chilcott stated that he saw that happen with zoning and would not like to see that happen with the Subdivision Regulations.

John Lavey stated that there are things that subdivision regulations can do and there are some things that subdivision regulations cannot do. He said that they cannot include zoning regulations, or building codes for example. Subdivision regulations simply regulate the division of land.

Commissioner Rokosch stated that the focus is to make the subdivision regulations better. He expressed an interest in holding update meetings and discussions with the Planning Board on a quarterly basis so that they can all stay on the same page.

4. **Next Regularly Scheduled Planning Board Meeting: March 4, 2009 at 7:00 p.m.**

(A) Brooks Hotel, Lot 6A, AP (R&G, Inc) Major Subdivision + 1 Variance - Public Meeting

(B) Elk Ridge (Basolo) Minor Subdivision + 1 Variance - Public Meeting

5. **Adjournment**

Commissioner Rokosch adjourned the meeting at 4:45 p.m.